

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SHAINA SILVERMAN and TYLER KIMBROUGH, individually and on behalf of themselves and all others similarly situated,

Plaintiffs,

V.

REALPAGE, INC.; BROOKFIELD
RESIDENTIAL PROPERTIES LLC;
CUSHMAN & WAKEFIELD, INC.; EQUITY
RESIDENTIAL; GREYSTAR REAL ESTATE
PARTNERS, LLC; AVALONBAY
COMMUNITIES, INC.; TF CORNERSTONE,
INC.; and ROSE ASSOCIATES INC.,

Defendants.

No. 2:22-cv-01740-RSL

STIPULATED MOTION AND
ORDER SUSPENDING
DEADLINE FOR CERTAIN
DEFENDANTS TO RESPOND TO
COMPLAINT

Pursuant to Local Civil Rules 7(d)(1), 7(j), and 10(g), Plaintiffs Shaina Silverman and Tyler Kimbrough (collectively, “Plaintiffs”) and Defendants RealPage, Inc., Brookfield Residential Properties LLC, Cushman & Wakefield, Inc., Equity Residential, Greystar Real Estate Partners, LLC, AvalonBay Communities, Inc., TF Cornerstone, Inc., and Rose Associates, Inc. (collectively, the “Stipulating Defendants”), by and through their respective counsel, hereby stipulate as follows:

WHEREAS, Plaintiffs filed a Class Action Complaint (the “Complaint”) on December 8, 2022, ECF No. 1;

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WHEREAS, Plaintiffs served Brookfield Residential Properties, LLC, Cushman & Wakefield, Inc., Equity Residential, Greystar Real Estate Partners, LLC, TF Cornerstone, Inc., and Rose Associates, Inc. with process on or about January 23 and 24, 2023, and RealPage, Inc. and AvalonBay Communities, Inc. waived service;

WHEREAS, the Complaint asserts claims under Section 1 of the Sherman Act based on the alleged use of RealPage, Inc.'s revenue management software;

WHEREAS, as of the date of this filing, the parties are aware that one or more of the Stipulating Defendants are named in multiple other lawsuits, in District Courts in Arizona, California, Colorado, the District of Columbia, Florida, Massachusetts, Tennessee, Texas, and other cases in Washington, asserting claims under Section 1 of the Sherman Act based on the alleged use of RealPage, Inc.'s revenue management software;

WHEREAS, on January 4, 2023, certain Stipulating Defendants and defendants named in other actions filed a motion pursuant to 28 U.S.C. § 1407 (the “1407 Motion”) before the U.S. Judicial Panel on Multidistrict Litigation (“JPML”) to transfer this case and others to the U.S. District Court for the Northern District of Texas for consolidated pretrial proceedings;

WHEREAS, Plaintiffs and the Stipulating Defendants have conferred and agreed that party and judicial efficiency would be best served by suspending, for a short period of time, the deadline for the Stipulating Defendants to answer, move to dismiss, or otherwise respond to the Complaint;

WHEREAS, similar orders have been entered in other related cases subject to the 1407 Motion, including: *Weaver v. RealPage, Inc. et al.*, No. 1:22-cv-03224 (D. Colo.), *Navarro v. RealPage, Inc. et al.*, No. 2:22-cv-01552 (W.D. Wash.), *Alvarez et al. v. RealPage, Inc. et al.*, No. 2:22-cv-01617 (W.D. Wash.), *Cherry et al. v. RealPage, Inc. et al.*, No. 2:22-cv-01618 (W.D. Wash.), *Morgan et al. v. RealPage, Inc. et al.*, No. 2:22-cv-01712 (W.D. Wash.), and *Armas et al. v. RealPage, Inc. et al.*, No. 2:22-cv-01726 (W.D. Wash.);

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WHEREAS, Defendant Brookfield Residential Properties LLC was misnamed, and the correct entity is Brookfield Properties Multifamily LLC;

WHEREAS, Plaintiffs and the Stipulating Defendants have conferred and agree that the deadline for the Stipulating Defendants to answer, move to dismiss, or otherwise respond to the Complaint should be suspended and should be set on the same date as the deadline ultimately established for *Alvarez et al. v. RealPage, Inc. et al.*, No. 2:22-cv-01617 (W.D. Wash.), *Cherry et al. v. RealPage, Inc. et al.*, No. 2:22-cv-01618 (W.D. Wash.), *Morgan et al. v. RealPage, Inc. et al.*, No. 2:22-cv-01712 (W.D. Wash.), and *Armas et al. v. RealPage, Inc. et al.*, No. 2:22-cv-01726 (W.D. Wash.).

WHEREAS, Plaintiffs and the Stipulating Defendants have agreed to file a joint status report with the Court by April 21, 2023.

In making this stipulation, the Stipulating Defendants do not waive, in this or any other action, any (i) defenses or arguments for dismissal that may be available under Fed. R. Civ. P. 12; (ii) affirmative defenses under Fed. R. Civ. P. 8, including defenses based on class action waivers; (iii) other statutory or common law defenses that may be available; or (iv) right to seek or oppose any reassignment, transfer, or consolidated alternatives, including to seek arbitration. The Stipulating Defendants expressly reserve their rights to raise any such defenses (or any other defense) in response to either the Complaint or any original, amended, or consolidated complaint that may be filed in this or any other action.

THEREFORE, Plaintiffs and the Stipulating Defendants stipulate and agree to suspend the deadline for the Stipulating Defendants to answer, move to dismiss, or otherwise respond to the Complaint and request that the Court enter the subjoined order pursuant to this stipulation.

STIPULATED to this 10th day of February, 2023.

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1 We certify that this memorandum contains
2 1,671 words, in compliance with the Local Civil
3 Rules.

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11 Brookfield Residential Properties LLC), as
12 manager for certain affiliated entities*

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ORDER

THIS MATTER came before the Court on the parties' Stipulated Motion to Suspend the Deadline for Certain Defendants to Respond to the Complaint. Now, therefore, IT IS HEREBY ORDERED THAT:

The deadline for Defendants RealPage, Inc., Brookfield Residential Properties LLC, Cushman & Wakefield, Inc., Equity Residential, Greystar Real Estate Partners, LLC, AvalonBay Communities, Inc., TF Cornerstone, Inc., and Rose Associates, Inc. to answer, move to dismiss, or otherwise respond to the Complaint is hereby suspended and shall be set on the same date as the deadline ultimately established for *Alvarez et al. v. RealPage, Inc. et al.*, No. 2:22-cv-01617 (W.D. Wash.), *Cherry et al. v. RealPage, Inc. et al.*, No. 2:22-cv-01618 (W.D. Wash.), *Morgan et al. v. RealPage, Inc. et al.*, No. 2:22-cv-01712 (W.D. Wash.), and *Armas et al. v. RealPage, Inc. et al.*, No. 2:22-cv-01726 (W.D. Wash.).

Plaintiffs and Defendants RealPage, Inc., Brookfield Residential Properties LLC, Cushman & Wakefield, Inc., Equity Residential, Greystar Real Estate Partners, LLC, AvalonBay Communities, Inc., TF Cornerstone, Inc., and Rose Associates, Inc. shall file a joint status report with the Court by April 21, 2023.

Dated this 13th day of February, 2023.

Robert S. Lasnik
Robert S. Lasnik
United States District Judge

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